

E-FILED on 04/17/09

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Theresa Bradley, Psy.D.,

Plaintiff,

v.

PayPal, Inc.,

Defendant.

No. C-08-03924 RMW

ORDER DISMISSING COMPLAINT

At the January 23, 2009 hearing for PayPal, Inc.'s ("Paypal") motion to dismiss, PayPal argued that although Theresa Bradley's ("Bradley") complaint states that Paypal violated federal law, the supporting allegations fail to state a federal claim. After the hearing, the court issued an order to show cause, finding that plaintiff could not satisfy diversity jurisdiction's amount-in-controversy requirement and ordering plaintiff to show why her complaint should not be dismissed for lack of federal-question subject matter jurisdiction. Order to Show Cause 2, Docket No. 35. Plaintiff filed her response on March 2, 2009, and Paypal has filed no opposition.

The court finds that plaintiff's response fails to show a sufficient basis for federal-question subject matter jurisdiction. Bradley's response cites three federal statutes that she alleges Paypal has

1 violated. Neither the complaint nor the supplemental filing adequately alleges conduct to state a
2 claim for violation of federal law.

3 Bradley states in her response that Paypal violated the Racketeer Influenced and Corrupt
4 Organizations Act ("RICO"). Plaintiff must satisfy the pleading requirements of RICO: "The
5 elements of a civil RICO claim are as follows: (1) conduct (2) of an enterprise (3) through a pattern
6 (4) of racketeering activity (known as 'predicate acts') (5) causing injury to the plaintiff's business or
7 property." *Living Designs, Inc. v. E.I. Dupont de Nemours & Co.*, 431 F.3d 353, 361 (9th Cir.
8 2005). The response does not allege how Paypal's conduct satisfies any of these elements.

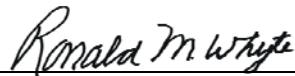
9 Bradley also states that Paypal violated the Truth In Lending Act at 15 U.S.C. §§ 1666,
10 1666i, and 1640(e). The purpose of the Truth in Lending Act ("TILA") is to promote "the informed
11 use of credit" by assuring "meaningful disclosure of credit terms [to consumers] so that the
12 consumer will be able to . . . avoid the uninformed use of credit." 15 U.S.C. § 1601(a). The TILA
13 statute also delegates to the Federal Reserve Board the authority to promulgate regulations. 15
14 U.S.C. § 1604(a). Bradley does not allege how Paypal's conduct constitutes a violation of the TILA.

15 Finally, Bradley cites 15 U.S.C. §§ 1681 et seq, which is part of the Fair Credit Reporting
16 Act. Again Bradley does not identify a particular section that Paypal violated, nor specific facts that
17 constitute a violation.

18 ORDER

19 For the reasons stated above, plaintiff's complaint is dismissed because she has not shown a
20 sufficient basis for subject matter jurisdiction. Bradley shall have 20 days leave to amend.

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23 DATED: 4/17/09


24 RONALD M. WHYTE
25 United States District Judge
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1 **Notice of this document has been sent to:**

2 **Counsel for Plaintiff:**

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7
8 Counsel are responsible for distributing copies of this document to co-counsel that have not
registered for e-filing under the court's CM/ECF program.

9
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11 **Dated:** 4/17/09

JAS
Chambers of Judge Whyte